

chapter ("Voluntary Referral Policy") to treat voluntary referrals for substance abuse counseling and treatment as confidential; and the certification status of an engineer who is successfully assisted under the procedures of that section shall not be adversely affected. However, the railroad shall include in its voluntary referral policy required to be issued pursuant to § 219.403 of this chapter a provision that, at least with respect to a certified locomotive engineer or a candidate for certification, the policy of confidentiality is waived (to the extent that the railroad shall receive from the EAP Counselor official notice of the substance abuse disorder and shall suspend or revoke the certification, as appropriate) if the person at any time refuses to cooperate in a recommended course of counseling or treatment.

[56 FR 28254, June 19, 1991, as amended at 60 FR 53136, Oct. 12, 1995]

§ 240.121 Criteria for vision and hearing acuity data.

(a) Each railroad's program shall include criteria and procedures implementing this section.

(b) *Fitness requirement.* A person who does not have visual acuity and hearing acuity that meets or exceeds the levels prescribed in this section shall not, except as permitted by paragraph (e) of this section, currently be certified as a locomotive engineer.

(c) Except as provided in paragraph (e), each person shall have visual acuity that meets or exceeds the following thresholds:

- (1) For distant viewing either
 - (i) Distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or
 - (ii) Distant visual acuity separately corrected to at least 20/40 (Snellen) with corrective lenses and distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses;
 - (2) A field of vision of at least 70 degrees in the horizontal meridian in each eye; and
 - (3) The ability to recognize and distinguish between the colors of signals.
- (d) Except as provided in paragraph (e) of this section, each person shall have hearing acuity that meets or ex-

ceeds the following thresholds when tested by use of an audiometric device (calibrated to American National Standard Specification for Audiometers, S3.6-1969): the person does not have an average hearing loss in the better ear greater than 40 decibels at 500Hz, 1,000 Hz, and 2,000 Hz with or without use of a hearing aid.

(e) A person not meeting the thresholds in paragraphs (c) and (d) of this section may be subject to further medical evaluation by a railroad's medical examiner to determine that person's ability to safely operate a locomotive. If the medical examiner concludes that, despite not meeting the threshold(s), the person has the ability to safely operate a locomotive, the person may be certified as a locomotive engineer and such certification conditioned on any special restrictions the medical examiner determines in writing to be necessary.

§ 240.123 Criteria for initial and continuing education.

(a) Each railroad's program shall include criteria and procedures for implementing this section.

(b) A railroad shall provide for the continuing education of certified locomotive engineers to ensure that each engineer maintains the necessary knowledge, skill and ability concerning personal safety, operating rules and practices, mechanical condition of equipment, methods of safe train handling (including familiarity with physical characteristics), and relevant Federal safety rules.

(c) A railroad that elects to train a previously untrained person to be a locomotive engineer shall provide initial training which, at a minimum:

- (1) Is composed of classroom, skill performance, and familiarization with physical characteristics components;
- (2) Includes both knowledge and performance skill testing;
- (3) Is conducted under the supervision of a qualified class instructor;
- (4) Is subdivided into segments or periods of appropriate duration to effectively cover the following subject matter areas:
 - (i) Personal safety,
 - (ii) Railroad operating rules,

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- (iii) Mechanical condition of equipment,
 - (iv) Train handling procedures (including use of locomotive and train brake systems),
 - (v) Familiarization with physical characteristics including train handling, and
 - (vi) Compliance with Federal regulations;
- (5) Is conducted so that the performance skill component shall
- (i) Be under the supervision of a qualified instructor engineer located in the same control compartment whenever possible;
 - (ii) Place the student engineer at the controls of a locomotive for a significant portion of the time; and
 - (iii) Permit the student to experience whatever variety of types of trains are normally operated by the railroad.

§ 240.125 Criteria for testing knowledge.

- (a) Each railroad's program shall include criteria and procedures for implementing this section.
- (b) A railroad shall have procedures for testing a person being evaluated for qualification as a locomotive engineer in either train or locomotive service to determine that the person has sufficient knowledge of the railroad's rules and practices for the safe operation of trains.
- (c) The testing methods selected by the railroad shall be:
 - (1) Designed to examine a person's knowledge of the railroad's rules and practices for the safe operation of trains;
 - (2) Objective in nature;
 - (3) Administered in written form;
 - (4) Cover the following subjects:
 - (i) Personal safety practices;
 - (ii) Operating practices;
 - (iii) Equipment inspection practices;
 - (iv) Train handling practices including familiarity with the physical characteristics of the territory; and
 - (v) Compliance with Federal safety rules;
 - (5) Sufficient to accurately measure the person's knowledge of the covered subjects; and
 - (6) Conducted without open reference books or other materials except to the degree the person is being tested on his

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or her ability to use such reference books or materials.

- (d) The conduct of the test shall be documented in writing and the documentation shall contain sufficient information to identify the relevant facts relied on for evaluation purposes.

§ 240.127 Criteria for examining skill performance.

- (a) Each railroad's program shall include criteria and procedures for implementing this section.
- (b) A railroad shall have procedures for examining the performance skills of a person being evaluated for qualification as a locomotive engineer in either train or locomotive service to determine whether the person has the skills to safely operate locomotives and/or trains, including the proper application of the railroad's rules and practices for the safe operation of locomotives or trains, in the most demanding class or type of service that the person will be permitted to perform.
- (c) The testing procedures selected by the railroad shall be:
 - (1) Designed to examine a person's skills in safely operating locomotives or trains including the proper application of the railroad's rules and practices for the safe operation of locomotives or trains when performing the most demanding class or type of service that the person will be permitted to perform;
 - (2) Conducted by a designated supervisor of locomotive engineers;
 - (3) Cover the following subjects during the test period:
 - (i) Operating practices;
 - (ii) Equipment inspection practices;
 - (iii) Train handling practices; and
 - (iv) Compliance with Federal safety rules;
 - (4) Be of sufficient length to effectively evaluate the person's ability to operate trains; and
 - (5) Conducted when the person either
 - (i) Is at the controls of the type of train normally operated on that railroad or segment of railroad and which this person might be permitted or required by the railroad to operate in the normal course of events after certification or